

1
2
3
4
5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
7

8 DERRICK SATCHELL, et al.,

No. C 03-2659 SI; C 03-2878 SI

9 Plaintiffs,

**ORDER GRANTING MOTION FOR
APPROVAL OF SERVICE PAYMENTS**

10 v.

11 FEDEX EXPRESS,

12 Defendant.
13 _____/

14 On August 9, 2007, the Court held a hearing on plaintiffs' motion for approval of service
15 payments. After consideration of the papers submitted in support of the motion, the Court finds that the
16 proposed service payments are fair and reasonable, taking into account "the actions the plaintiff[s]
17 [have] taken to protect the interests of the class, the degree to which the class has benefitted from those
18 actions, . . . [and] the amount of time and effort the plaintiff[s] expended in pursuing this litigation . .
19 ." *Staton v. Boeing*, 327 F.3d 938, 977 (9th Cir. 2003) (quoting *Cook v. Niedert*, 142 F.3d 1004, 1016
20 (7th Cir. 1998)). As detailed in the declarations of Guy Wallace and James Finberg, the class
21 representatives assisted in responding to discovery, were deposed, contributed to counsel's factual
22 investigation, participated in discussions regarding mediation, and prepared to be trial witnesses. The
23 declarants also provided significant and valuable assistance to the class in that they were interviewed
24 repeatedly, participated in conference calls and meetings, and were deposed.

25 The Court has considered objections filed by two declarants. Declarant Brett Hoiland does not
26 specifically object to the amounts of the service payments. Instead, Mr. Hoiland objects that the class
27 action settlement "greatly dilutes my individual claims," and Mr. Hoiland states that he would have
28 pursued an individual action but for the fact that his individual claims are barred by the statute of

1 limitations. At the fairness hearing, Mr. Hoiland (through plaintiffs' counsel) inquired whether the
 2 Court could allow Mr. Hoiland's individual claims to proceed despite the fact that those claims would
 3 be untimely. The Court explained that if individual claims are not filed within the statute of limitations,
 4 those claims are lost. Mr. Hoiland also objects that class members will receive monetary settlements
 5 even though those individuals did not actively participate in the case. At the fairness hearing, the Court
 6 explained that class actions are intentionally structured to allow class representatives to bring a case
 7 on behalf of a large number of people without requiring the active involvement of class members.

8 Declarant Rosalinda Olmos also filed an objection. Ms. Olmos does not challenge the amount
 9 of the declarant service award, but rather contends that she should be treated like a class representative
 10 because she was originally a named plaintiff in this action.¹ At the fairness hearing, plaintiffs' counsel
 11 recognized Ms. Olmos' contributions to this case, and the Court commends Ms. Olmos for her
 12 significant service. However, the Court finds that because Ms. Olmos did not act as a class
 13 representative for much of the litigation, it is appropriate that she receive a declarant service award.

14
 15 Accordingly, the Court GRANTS plaintiffs' motion for approval of the service awards. (Docket
 16 No. 757). The Claims Administrator shall distribute the following amounts pursuant to the Consent
 17 Decree:

- 18 (1) \$30,000 each to Derrick Satchell, Kalini Boykin, Valerie Brown, Rick Gonzales, Cynthia
 19 Guerrero, Rachel Hutchins, Tyrone Merrit, Kelvin Smith Sr., and Ken Stevenson.
 20
- 21 (2) \$5,000 each to Sheila Akins, Virgil Banks, Yolanda Canela, Bonta Clarke, Eric
 22 Foreman, Maurice Griffin, Janet Haynes, Eric Hill, Brett Hoiland, Ingrid James, Zeno
 23 Latin, Venturi McCray Sr., Mitchell McCoy, Rose Moncrief, Antonio Norris, Rosalinda
 24 Olmos, Beverly Patterson, and Mimi Steel.
 25

26 These amounts are separate and apart from any other recovery to which these individuals might be
 27

28 ¹ Ms. Olmos was listed as a named plaintiff in the first amended complaint filed in June 2003,
 but did not appear as a named plaintiff in the consolidated amended complaint filed in November 2003.

entitled under other provisions of the Consent Decree.

IT IS SO ORDERED.

Dated: August 14, 2007



SUSAN ILLSTON
United States District Judge